

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE: DEALER MANAGEMENT
SYSTEMS ANTITRUST LITIGATION

MDL No. 2817
Case No. 18-cv-00864

This Document Relates To:

Hon. Robert M. Dow, Jr.
Magistrate Judge Jeffrey T. Gilbert

Authenticom, Inc. v. CDK Global, LLC, et al.,
Case No. 1:18-cv-00868 (N.D. Ill.)

*Motor Vehicle Software Corp. v. CDK Global,
LLC, et al.*, Case No. 1:18-cv-00865 (N.D. Ill.)

**DECLARATION OF MICHAEL N. NEMELKA IN SUPPORT OF PLAINTIFFS
AUTHENTICOM'S AND MVSC'S REPLY IN SUPPORT OF THEIR MOTION FOR
SANCTIONS AGAINST DEFENDANT THE REYNOLDS AND REYNOLDS COMPANY**

I, Michael N. Nemelka, pursuant to 28 U.S.C. § 1746, declare as follows. I am a partner with the law firm of Kellogg, Hansen, Todd, Figel & Frederick, P.L.L.C. in Washington, D.C. I respectfully submit this declaration in support of Plaintiffs Authenticom's and MVSC's Reply in Support of Their Motion for Sanctions Against Defendant The Reynolds and Reynolds Company for the intentional destruction of evidence. All of the documents attached to this Declaration (Exhibits 30 – 50) are true and correct copies of the identified documents and have been designated, as appropriate, under the Second Amended Agreed Confidentiality Order in this case (Dkt. 650).

1. Attached as **Exhibit 30** is a true and correct copy of screenshots of the Evidence Eliminator website, available at <https://web.archive.org/web/20100109050844/http://www.evidence-eliminator.com/dis-information.d2w>.

2. Attached as **Exhibit 31** is a true and correct copy of excerpts from the transcript of the June 27, 2017 (Day 2 Afternoon Session) Preliminary Injunction Hearing in *Authenticom, Inc. v. CDK Global, LLC*, No. 17-318 (W.D. Wis.), Dkt. 163.

3. Attached as **Exhibit 32** is a true and correct copy of Superior Integrated Solutions, Inc.'s Amended Answer and Affirmative Defenses to Plaintiff's First Amended Complaint and Second Amended Counterclaim, *The Reynolds & Reynolds Co. v. Superior Integrated Solutions, Inc.*, No. 12-cv-848 (S.D. Ohio), Dkt. 52-1.

4. Attached as **Exhibit 33** is a true and correct copy of excerpts from the transcript of the April 18, 2019 (Day 2) deposition of Robert Schaefer in this litigation.

5. Attached as **Exhibit 34** is a true and correct copy of an April 19, 2016 letter from R. Schaefer to Data Software Services, LLC (a/k/a eLead), as produced in this litigation with beginning Bates number REYMDL00012544.

6. Attached as **Exhibit 35** is a true and correct copy of excerpts from Reynolds Amended Privilege Log (dated February 8, 2019).

7. Attached as **Exhibit 36** is a true and correct copy of a March 18, 2016 email from R. Schaefer to R. Sundram, as produced in this litigation with beginning Bates number REYMDL00098951.

8. Attached as **Exhibit 37** is a true and correct copy of a September 11, 2016 email from R. Schaefer to B. Brockman (with attachments), as produced in this litigation with beginning Bates number REYMDL00183325.

9. Attached as **Exhibit 38** is a true and correct copy of a September 8-9, 2016 email chain from a dealer to Reynolds, as produced in this litigation with beginning Bates number REYMDL00295776.

10. Attached as **Exhibit 39** is a true and correct copy of the article cited as Miriam Gottfried and Mark Maremont, *The Billionaire Behind the Biggest U.S. Tax Fraud Case Ever Filed*, Wall St. J. (Mar. 3, 2021).

11. Attached as **Exhibit 40** is a true and correct copy of excerpts from the transcript of the January 17, 2019 (Day 2) deposition of Robert Brockman in this litigation.

12. Attached as **Exhibit 41** is a true and correct copy of excerpts from the transcript of the April 17, 2019 (Day 1) deposition of Robert Schaefer in this litigation.

13. Attached as **Exhibit 42** is a true and correct copy of excerpts from the transcript of the May 2, 2019 deposition of Keith Hill in this litigation.

14. Attached as **Exhibit 43** is a true and correct copy of excerpts from the transcript of the November 14, 2018 deposition of Jon Martin in this litigation.

15. Attached as **Exhibit 44** is a true and correct copy of a May 3, 2015 email from R. Brockman to R. Schaefer, as produced in this litigation with beginning Bates number REYMDL00062622.

16. Attached as **Exhibit 45** is a true and correct copy of a July 5-6, 2015 email chain between R. Brockman and R. Schaefer, as produced in this litigation with beginning Bates number REYMDL00132467.

17. Attached as **Exhibit 46** is a true and correct copy of a May 28, 2016 email between R. Brockman and R. Schaefer, as produced in this litigation with beginning Bates number REYMDL00238485.

18. Attached as **Exhibit 47** is a true and correct copy of an Order, issued in *Robert van Weber, et al. v. Universal Computer Systems, Inc., et al.*, No. 95-37973, 270th District Court, Harris County, Texas (Dec. 11, 1998).

19. Attached as **Exhibit 48** is a true and correct copy of the Plaintiffs' Response to Petition and to the Supplemental Petition for Writ of Mandamus, *In re Universal Computer Systems, Inc.*, No. 01-99-00024-CV (Tex. Ct. App. Apr. 29, 1999).

20. Attached as **Exhibit 49** is a true and correct copy of excerpts from the transcript of the December 3, 1998 deposition of Robert Brockman in *Robert van Weber, et al. v. Universal Computer Systems, Inc.*, et al., No. 95-37973, 270th District Court, Harris County.

21. Attached as **Exhibit 50** is a true and correct copy of an April 25-26, 2016 email chain between R. Brockman and R. Schaefer, as produced in this litigation with beginning Bates number REYMDL00468420.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: April 13, 2021

/s/ Michael N. Nemelka
Michael N. Nemelka